IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.951 OF 2005
IN
SUIT NO.1088 OF 1973

Shri Prithvi Cotton Mills Ltd.
and Ors. ..Plaintiffs

Vs.

Pradeep Gordhandas Vora and Ors. ..Defendants

And

Rungta Estate P.Ltd. ..Respondent

Mr.Milind Vasudeo a/w Munir Merchant for the plaintiffs

Mr.J.P.Sen i/b F.Z.B. and Associates for the defendant no.1(a)

Mr.Ramakant Yadav i/b Theba and Associates for Official Liquidator

CORAM : S.U.KAMDAR, J
DATED : 13TH APRIL, 2006

P.C.:

1. The present chamber summons is taken out for condonation of delay of 6 years in complying with the order dt.9.7.99 passed in Chamber Summons no.847 of 1998. There is also non compliance of

the orders dt.3.12.90 15.1.91 and 9.7.99. By prayer clause (c), (d), (e) and (f), the plaintiffs are seeking to set aside the abatement and to bring legal heirs of plaintiff nos.5 and 12 on record. There is serious delay in carrying out various orders under which amendment are granted.

2. The most disturbing feature in this case is suit is of 1973 i.e. 31 years old and inspite of that plaintiffs is not serious in prosecuting the suit. Inspite of granting the orders of amendment he would not even carry out same in accordance with the procedure prescribed and even extensions are obtained but inspite of that there are non compliance of the orders.

3. The learned counsel for the plaintiffs appearing in support of chamber summons states that earlier advocate did not intimate the plaintiffs that the suit is required to be re-declared. I am not satisfied with he explanation furnished. Plaintiff is negligent in prosecuting the present suit. The only reason for which I seek to intervene and grant condonation of delay is

interest of Justice because dismissing the Chamber Summons would result in dismissal of suit and that would result in lot of injustice to the plaintiffs. However, the negligent conduct as evident from the present proceeding cannot be left unpunished.

4. In that light of the matter, I grant the Chamber Summons in terms of prayer clause (a) to (f). I direct the plaintiffs to pay cost to defendant no.1(a) and defendant no.2 being Official Liquidator quantified at Rs.25000 each. Cost to be paid on or before 18.4.06. Amendment to be carried out by 18.4.06. If amendment is not carried out by 18.4.06, matter to be placed on board for dismissal on 19.4.06.